

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

FILED/ACCEPTED

JAN 29 2010

In the Matter of )

Federal Communications Commission  
Office of the Secretary

A National Broadband Plan for Our Future )

GN Docket No. 09-51

**COMMENTS OF CRICKET COMMUNICATIONS, INC.**

Cricket Communications, Inc. ("Cricket"), a leading provider of unlimited wireless voice and broadband services and a wholly owned subsidiary of Leap Wireless International, Inc., hereby submits these comments in response to the above-captioned Notice of Inquiry.<sup>1</sup> Cricket appreciates how formidable the challenge will be to "ensure that all people of the United States have access to broadband capacity."<sup>2</sup> But every journey must begin somewhere, and Cricket is hopeful that the national broadband plan the Commission adopts will chart a sensible course.

The Commission will undoubtedly receive scores of comments in this proceeding, and sifting through all of the varied (and conflicting) views will be a daunting task. Thus, Cricket focuses its comments on two points that the company believes are critical to achieve the stated goal of having a real nationwide broadband network that is accessible to everyone.

*First*, in defining what "broadband" means, the Commission should maintain its existing standards for transmission speed. For most consumers and businesses, the performance of existing wireless broadband services is sufficient to meet their needs. The real barrier to broadband service is *access*, not speed. A definition of broadband that required transmission speeds in excess of today's widely available wireless broadband technologies would distort

---

<sup>1</sup> *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Notice of Inquiry, FCC 09-31 (rel. Apr. 08, 2009) ("*Broadband Inquiry*").

<sup>2</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("*Recovery Act*"), § 6001(k)(2).

competition and move the goalposts of universal coverage beyond reach, without bringing meaningful benefits to the public. *Second*, in deciding how to promote broadband access for every American, Cricket believes the two most important factors are *affordability* and *digital literacy*. Society will not benefit from widespread deployment of broadband if large segments of the public cannot afford, or do not know how to use, the services that are available in their area. The national broadband plan should advance policies and programs that offer both financial and instructional support, particularly for communities most in need.

**I. THE COMMISSION SHOULD MAINTAIN ITS EXISTING DEFINITION OF "BROADBAND SERVICE"**

The Commission currently defines "basic broadband" to refer to services that have transmission speeds of at least 768 kilobits per second in the faster direction (upload or download).<sup>3</sup> That continues to be a reasonable benchmark for most common Internet uses and other advanced wireless services. At speeds consistent with existing standards, consumers can quickly and easily access email, view websites, and stream or download online media. The Commission should first ensure ubiquitous access to the information superhighway so that all Americans can enjoy these basic Internet features before increasing the speed limit.

Millions of consumers have chosen wireless broadband services (such as Cricket's unlimited broadband offering) over DSL and cable services, which are generally capable of faster speeds. Many of these subscribers prefer the affordability, convenience, and mobility that only wireless broadband services offer, rather than being tethered to a fixed connection at their homes or offices. Many business professionals use wireless broadband so that they can stay connected even when they travel. Other users want the flexibility to check their e-mail and visit

---

<sup>3</sup> See *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improved Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, Report and Order and Further Notice of Proposed Rulemaking, FCC 08-89, WC Docket No. 07-38 (rel. June 12, 2008) at ¶ 20 & n.66.

their favorite websites at the local coffee shop. And some subscribers live in areas where DSL and cable service is simply unavailable. Indeed, Cricket subscribers report that low monthly price and mobility are the two most significant reasons why they chose wireless broadband service over other options. Thus, for many consumers, wireless broadband is better tailored to meet their everyday business or personal needs than other broadband service offerings. The Commission should define "broadband" in its national broadband plan to include existing wireless broadband services and explicitly recognize that mobility is an important feature of advanced communications services. There is no justification to impose a more rigorous standard that would exclude wireless services as part of the broadband solution, and doing so would only make the goal of universal broadband access less likely to become a reality.

The foremost objective of broadband policy should be to ensure that all Americans have the opportunity to use exciting and innovative features and services over broadband that have been developed through competitive market forces; the goal should not be to force broadband technology to develop along a particular path. Wireless broadband speeds will continue improving dramatically over the next years, as more advanced technologies (such as LTE, UMB, and WiMax) are deployed. Overly restrictive performance standards would likely do more harm than good by distorting incentives and prematurely foreclosing innovations that could well bring enormous benefits to consumers. The Commission should heed its own advice and "not lose sight of the potential for monumental shifts in technological platforms that would render definitions obsolete or indeed harmful to developments that might otherwise take place in the market."<sup>4</sup>

---

<sup>4</sup> *Broadband Inquiry* at ¶ 22.

Demanding faster transmission speeds than those set forth in the Commission's existing definition of "basic broadband" would also unfairly favor certain broadband technologies (such as fiber and cable) over others. The Commission should not create artificial and unnecessary standards that would not only impede the goal of universal broadband access, but would also frustrate the Commission's broader goal of promoting competition for telecommunications services. The wireless industry is already dominated by only a few providers; an excessive speed threshold would make it that much harder for other providers to compete.

## **II. THE COMMISSION MUST PROMOTE AFFORDABILITY AND DIGITAL LITERACY IN ORDER TO ACHIEVE UNIVERSAL BROADBAND ACCESS**

The lack of affordable broadband services and digital illiteracy are perhaps the two most challenging barriers to broadband adoption. In densely populated areas of the country, both fixed and wireless broadband service options are currently available, but many consumers—and, in particular, individuals from disadvantaged and minority communities—simply cannot pay the current rates or satisfy the financial criteria to subscribe to those services. Even if those consumers could afford it, broadband service is of no use without a computer or other access device, along with the knowledge and skills necessary to operate that device. To overcome these challenges, the Commission should advance policies and programs that offer both financial and instructional support to facilitate broadband adoption, particularly for communities most in need.

### **A. Affordability**

A 2008 study by the Pew Internet & American Life Project confirms that limited income is one of the most important factors in determining whether a household currently subscribes to broadband service.<sup>5</sup> Here are a few of the key findings from that study:

---

<sup>5</sup> Pew Internet & American Life Project, *Home Broadband Adoption 2008* (July 2008), available at [http://www.pewinternet.org/pdfs/PIP\\_broadband\\_2008.pdf](http://www.pewinternet.org/pdfs/PIP_broadband_2008.pdf).

- Even though home broadband adoption increased from 47% to 55% nationwide, the percentage of low-income Americans—those whose annual household incomes are \$20,000 or less—who reported having broadband in the home actually *decreased* from 28% in March 2007 to 25% in April 2008 (reflecting an 11% decline). This was the only reported demographic group showing a decline.
- Among those living in households with annual incomes in excess of \$100,000, broadband adoption grew from 82% to 85% over the same time frame.
- When respondents with dial-up service were asked what would motivate them to switch to broadband, 35% answered that prices would have to fall. This was by far the most often cited reason for not subscribing to broadband service. Only 10% responded that lack of availability was the reason for not subscribing.
- There is a significant income gap between dial-up users and broadband users: 29% of dial-up users live in households with annual incomes below \$30,000 compared to 14% of broadband users in that income range.

Ethnic groups also reported significantly lower broadband adoption. The share of African-Americans with broadband in the home remained largely the same (from 40% to 43%, within the margin of error for the survey). NTIA data show an even greater disparity among income and ethnic groups. According to a report released in January 2008, 64% of American households with an annual income greater than \$25,000 had broadband service in the home, whereas only 31% of households with an income less than \$25,000 used broadband service at home.<sup>6</sup> Approximately 55% of Caucasian respondents subscribed to broadband, compared to only about 35% of Hispanics and African-Americans.

Providing greater accessibility to broadband service for low-income families would lead to a host of benefits for those individuals directly affected. As FCC Acting Chairman Michael Copps recently observed, “people throughout this nation enjoy an array of benefits derived from broadband—education, news, health care, entertainment, and innovation to name a few.”<sup>7</sup> And

---

<sup>6</sup> NTIA, *Networked Nation: Broadband in America 2007*, appendix (Jan. 2008), available at [http://www.ntia.doc.gov/reports/2008/Table\\_HouseholdInternet2007.pdf](http://www.ntia.doc.gov/reports/2008/Table_HouseholdInternet2007.pdf).

<sup>7</sup> Letter from FCC Acting Chairman Michael J. Copps to Congressmen Joe Barton and Cliff Stearns (Mar. 31, 2009) (“Copps Mar. 31 Letter”) at 2.

as One Economy CEO Rey Ramsey noted, broadband adoption would allow low-income people to use the service “for finding jobs and information on health.”<sup>8</sup> There are of course other well-documented social and economic benefits to Internet use generally, including lower prices for consumer goods and greater networking capabilities.<sup>9</sup> Equally important, however, increased broadband subscribership would provide a significant boost to the overall economy. A 2008 study estimated that, with a 7 percent increase in broadband adoption, the U.S. would gain \$92 billion in new wages from the 2.4 million jobs created through this broadband growth.<sup>10</sup>

There are several concrete steps that the Commission should take as part of its “detailed strategy for achieving affordability” of broadband services for low-income and disadvantaged communities.<sup>11</sup>

First, in its consultative role, the Commission should urge the National Telecommunications and Information Administration (“NTIA”) to devote a significant portion of the Broadband Technology Opportunities Program (“BTOP”) funds to competitive grants that will “facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations,” as specified in the Recovery Act.<sup>12</sup> Acting Chairman Copps recently acknowledged that affordability is an important factor that should be taken into account in awarding BTOP grants. Specifically, in response to an inquiry from several Congressmen about how “underserved” should be defined, he stated that the NTIA and FCC may consider

<sup>8</sup> Communications Daily, Notebook, Mar. 24 2009.

<sup>9</sup> See, e.g., Austan Goolsbee and Peter Klenow, *Evidence on Learning and Network Externalities in the Diffusion of Home Computers*, 45 J. Law and Econ. 317 (2002); Fiona Scott Morton et al., *Consumer Information and Discrimination: Does the Internet Affect the Pricing of New Cars to Women and Minorities?*, 1 Quantitative Marketing and Economics 65 (2003); Jed Kolko, *Why Should Governments Support Broadband Adoption?*, Public Policy Institute of Calif., Working Paper #2007.01 (2007).

<sup>10</sup> See Connected Nation, *The Economic Impact of Stimulating Broadband Nationally* (Feb. 21, 2008), available at [http://www.connectednation.com/\\_documents/Connected\\_Nation\\_EIS\\_Study\\_Executive\\_Summary\\_02212008.pdf](http://www.connectednation.com/_documents/Connected_Nation_EIS_Study_Executive_Summary_02212008.pdf).

<sup>11</sup> Recovery Act § 6001(k)(2)(B).

<sup>12</sup> *Id.* § 6001(b)(3)(B); see also *id.* § 6001(g)(4).

“important factors in addition to the number of providers in an area, such as affordability, competition, ubiquity of service . . . , quality of service . . . , and how other policies could improve broadband availability or encourage further deployment in an area.”<sup>13</sup> And he stressed that much work remains “to bring these benefits to those Americans who remain out of reach of these services, whether they are in rural or urban areas, and to those Americans for whom the services are not adequate or not affordable.”<sup>14</sup>

Second, the Commission should subsidize broadband subscriptions and computer equipment costs through its Lifeline and Link-Up programs, as the Commission had previously considered (but ultimately did not adopt) as proposals for reforming the universal service program.<sup>15</sup> Studies show that such targeted programs are a very effective and efficient way to increase low-income service adoption.<sup>16</sup> Furthermore, Congress expressly provided that one of the principles on which universal service policies should be based is that “access to advanced telecommunications and information services should be provided in all regions of the nation” and be available to “low-income consumers.”<sup>17</sup>

Third, the Commission should rule that wireless carriers must offer data roaming to other providers on just, reasonable, and non-discriminatory terms, and without any geographic

---

<sup>13</sup> Copps Mar. 31 Letter at 3.

<sup>14</sup> Copps Mar. 31 Letter at 2.

<sup>15</sup> See *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, CC Docket Nos. 01-92, 99-200, 99-68, 96-98, 96-45, WC Docket Nos. 06-122, 05-337, 04-36, 03-109, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262, App. A ¶¶ 64-91, App. C ¶¶ 60-87 (rel. Nov. 5, 2008).

<sup>16</sup> See G. Rosston and B. Wimmer, *The “State” of Universal Service*, 12 *Information Economics and Policy* 261, 264-65 (2000) (collecting studies).

<sup>17</sup> 47 U.S.C. § 254(b)(2), (3).

restrictions.<sup>18</sup> As discussed above (see pages 2–3, *supra*), wireless broadband services are affordable and convenient and already reach many areas where fixed wireless broadband services are unavailable. In remote areas in particular, mobile wireless technologies are a much more efficient way to ensure broadband coverage than investment in fixed wireline and cable infrastructure. As Acting Chairman Copps observed in the *Report on a Rural Broadband Strategy*, “wireless broadband service can offer cost-effective connectivity where no broadband exists, as well as complementary or competitive service where it does.”<sup>19</sup> A data roaming obligation would promote growth and competition in broadband and other enhanced wireless data services by ensuring that all wireless broadband subscribers—including subscribers within low-income, disadvantaged, and rural communities—have access to seamless wireless broadband service.

#### B. Digital Literacy

Former NTIA Director Larry Irving recently estimated that approximately 90% of American households have access to at least one broadband provider.<sup>20</sup> In the *Report on a Rural Broadband Strategy*, Acting Chairman Copps estimated that broadband networks cover 99 percent of the population.<sup>21</sup> But less than 60% of households nationwide—and 57% of urban residents—actually subscribe to those services.<sup>22</sup> And, as noted above, ethnic groups have subscription rates that are significantly below the national average. The Commission and the NTIA should certainly promote the construction and deployment of additional broadband

<sup>18</sup> See Comments of Leap Wireless International, Inc., *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265, at 10 (filed Oct. 29, 2007).

<sup>19</sup> Acting Chairman Michael J. Copps, *Bringing Broadband to Rural America: Report on a Rural Broadband Strategy* 62 (May 22, 2009), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-291012A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-291012A1.pdf).

<sup>20</sup> Larry Irving, *As Washington Wakes Up to Broadband, Adoption and Availability Must Be Addressed*, Roll Call (Mar. 10, 2009), available at <http://www.rollcall.com/news/33010-1.html>.

<sup>21</sup> *Report on a Rural Broadband Strategy* at 12–13.

<sup>22</sup> See Irving, n.22; see also *Home Broadband Adoption 2008* at 2.



infrastructure to provide coverage for remaining uncovered households and also to facilitate effective competition in all areas. At the same time, however, the focus of the broadband plan should be on *adoption*, particularly with respect to ethnic and disadvantaged communities that are on the wrong side of the digital divide.

Digital illiteracy is clearly a significant factor in explaining our country's poor broadband adoption rate. The *Report on a Rural Broadband Strategy* concluded that one significant factor contributing to low consumer demand for broadband services is the "lack of training and knowledge regarding the benefits of Internet access," and broadband access in particular.<sup>23</sup> Recent studies suggest that programs to improve digital literacy lead to higher broadband adoption rates, both at the local and national level.<sup>24</sup> For instance, an independent evaluation of participants in digital literacy training from One Economy showed that, compared to the national average, those individuals with training were:

- using the Internet at rates higher than other low-income Americans;
- accessing the Internet through broadband technologies at rates higher than other low-income Internet users;
- improving job performance, health outcomes, and community connections through Internet use at rates higher than other low-income Internet users; and
- engaging in specific online activities—such as enrolling in web-based courses—that can lead to positive social and economic outcomes at rates higher than other low-income Internet users.<sup>25</sup>

Leap's recent pilot program with One Economy confirms that basic instruction and financial support is essential to promote broadband adoption and can have far-reaching benefits

---

<sup>23</sup> *Report on a Rural Broadband Strategy* at 45.

<sup>24</sup> See, e.g., Information Technology & Innovation Foundation, *Explaining International Broadband Leadership* (May 01, 2008), available at <http://www.itif.org/files/ExplainingBBLLeadership.pdf>.

<sup>25</sup> See Center for Technology in Learning, *One Economy Digital Communities: Transforming Lives for Low-Income Americans in San Jose and Miami* (2006), available at <http://www.one-economy.com/sites/all/files/SRI-Digital-Communities-Miami-SJ-Eval-2-06.pdf>.

for people's lives. Cricket recently partnered with One Economy provide 100 low-income families in Portland, Oregon with computers, modems, and free Cricket wireless broadband service for two years. This pilot program has been tremendously successful, not only in promoting broadband access but also in improving the everyday lives of those participating in the program. For example, one participant reported that he enrolled in an online English course; another said she started interacting with prospective employers by email; and a 13-year-old girl stated that she was able to learn more online about her chronic kidney disease.

Cricket hopes to expand this program to reach many more households across the nation that could also benefit from broadband service, and it strongly urges the Commission to actively promote digital literacy programs through its national broadband plan.

### CONCLUSION

For the reasons explained above, Cricket urges the Commission to:

(1) maintain its existing standards for transmission speed when defining what "broadband" means in the context of its national broadband plan, so that existing wireless broadband services can be part of the solution in building a real nationwide broadband network that is available to all Americans; and

(2) advance policies and programs that offer both financial and instructional support to facilitate broadband access, particularly for communities most in need. Low-income families and ethnic communities should not be left stranded on the wrong side of the digital divide.

Respectfully submitted,

/s/

Robert J. Irving, Jr.  
Senior Vice President and General Counsel  
Cricket Communications, Inc.  
10307 Pacific Center Court  
San Diego, CA 92121  
(858) 882-6048

---

James H. Barker  
Barry J. Blonien  
LATHAM & WATKINS LLP  
555 Eleventh Street, NW  
Washington, DC 2004-1304  
(202) 637-2200

*Counsel for Cricket Communications, Inc.*

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

FILED/ACCEPTED

JAN 29 2010

In the Matters of	)	
	)	
International Comparison and Survey	)	GN Docket No. 09-47
Requirements in the Broadband Data	)	
Improvement Act	)	
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Inquiry Concerning the Deployment of	)	GN Docket No. 09-137
Advanced Telecommunications Capability to	)	
All Americans in a Reasonable and Timely	)	
Fashion, and Possible Steps to Accelerate Such	)	
Deployment Pursuant to Section 706 of the	)	
Telecommunications Act of 1996, as Amended	)	
by the Broadband Data Improvement Act	)	

Federal Communications Commission  
Office of the Secretary

**COMMENTS OF CRICKET COMMUNICATIONS, INC. – NBP NOTICE # 19**

Cricket Communications, Inc. ("Cricket"), a wholly owned subsidiary of Leap Wireless International, Inc., hereby responds to the Commission's public notice seeking comment on the potential use of universal service fund ("USF") to promote broadband deployment and adoption pursuant to the National Broadband Plan.<sup>1</sup> As a provider of digital wireless voice and broadband services focused on underserved customer segments, Cricket understands the challenge facing the Commission to "ensure that all people of the United States have access to broadband capacity."<sup>2</sup> Indeed, affordability is among the greatest barriers to the universal adoption of broadband.<sup>3</sup> Accordingly, Cricket supports adoption of a targeted program to subsidize

<sup>1</sup> *Comment Sought on the Role of Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, Public Notice, GN Docket Nos. 09-47, 09-51, 09-137 (rel. Nov. 13, 2009) ("Public Notice").

<sup>2</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("Recovery Act"), § 6001(k)(2).

<sup>3</sup> See, e.g., Comments of Cricket Communications, Inc., Docket No. 09-51 at 2, 4-8 (filed June 8, 2009) ("Cricket Broadband Comments").

consumer broadband costs. In establishing such a program, the Commission should encourage the deployment of increasingly robust broadband capabilities, but it should take care to avoid creating artificial barriers to the roll-out of wireless services such as requiring heightened speeds. Because the current speed threshold that defines "broadband" is sufficient to satisfy the broadband needs of most consumers, conditioning USF support on a provider's satisfaction of heightened speed-related obligations could preclude wireless provider participation, which would only delay the expansion of broadband networks and thereby undermine a core purpose of the National Broadband Plan.

**L. THE COMMISSION SHOULD UTILIZE UNIVERSAL SERVICE SUPPORT TO PROMOTE MORE WIDESPREAD ADOPTION OF AFFORDABLE BROADBAND SERVICES**

Affordability of service represents one of the most significant barriers to broadband adoption. Many consumers, even when provided with access to multiple broadband technologies and service providers, simply cannot afford to purchase high-speed Internet access. A 2009 study by the Pew Internet & American Life Project confirms that cost is one of the most important factors in determining whether a consumer will subscribe to broadband service.<sup>4</sup> Nearly one-third of all users with dial-up home Internet access cite price as the main reason for not switching to broadband.<sup>5</sup> Likewise, cost of service is one of the most common concerns among individuals with no home Internet service of any kind.<sup>6</sup> The specter of affordability is further reflected in the household income gap that exists among broadband users: 88 percent of

---

<sup>4</sup> See Pew Internet & American Life Project, *Home Broadband Adoption 2009* (June 2009), available at <http://www.pewinternet.org/~media/Files/Reports/2009/Home-Broadband-Adoption-2009.pdf>.

<sup>5</sup> *Id.* at 7.

<sup>6</sup> *Id.* at 8.

homes with household income greater than \$100,000 subscribe to broadband service, versus only 35 percent of homes with household income less than \$20,000.<sup>7</sup>

Cricket accordingly commends the Commission for giving strong consideration to the role that USF support may play in promoting broadband deployment and adoption. In particular, the Commission should focus on expanding its Lifeline and Link-Up programs to cover broadband services. Indeed, targeted subsidies offer one of the more promising means of bolstering the adoption of services by low-income individuals and bridging the digital divide.<sup>8</sup> Moreover, such an approach would help fulfill Congress's directive that low-income consumers should have access to high-quality telecommunications *and* information services at affordable rates.<sup>9</sup>

With its commitment to offering communications services at affordable rates to underserved communities that have been ignored or neglected by other providers, Cricket is well-positioned to reach those consumers who will benefit the most from a federal subsidy program for broadband. Cricket serves approximately 4.7 million customers in 34 states and the District of Columbia,<sup>10</sup> offering flat-rate wireless voice and broadband services without typical impediments such as credit checks, long-term commitments, or early termination fees. Cricket's unlimited voice plans are available for as little as \$30 per month, and unlimited broadband service starts at \$35 per month. Approximately 80 percent of Cricket's customers have annual household income of less than \$50,000, and approximately 55 percent have annual incomes less

---

<sup>7</sup> *Id.* at 14.

<sup>8</sup> See G. Rosston and B. Wimmer, *The "State" of Universal Service*, 12 Information Economics and Policy 261, 264-65 (2000) (collecting studies).

<sup>9</sup> 47 U.S.C. §§ 254(b)(1), (b)(3).

<sup>10</sup> As of September 29, 2009, Cricket owned wireless licenses covering an aggregate of approximately 179.4 million POPs (adjusted to eliminate duplication from overlapping licenses). Form 10-Q at 39 (Sept. 30, 2009). The combined network footprint in Cricket's operating markets covers approximately 91.1 million POPs. *Id.*

than \$30,000—in both cases far above the industry average. The scope and availability of Cricket's service offerings will continue to grow as Cricket's commercial presence expands in a manner consistent with its successful past—by building networks with the coverage and density to support unlimited service in areas populated by young and ethnically diverse individuals with relatively low incomes.

**II. THE COMMISSION SHOULD NOT REQUIRE PROVIDERS TO OFFER TRANSMISSION SPEEDS GREATER THAN THOSE NOW CONSTITUTING BROADBAND AS A CONDITION TO RECEIVING USF SUPPORT**

While the Commission should undertake universal service reform to accommodate the nation's broadband needs, it should not condition the receipt of USF support on a provider's ability to offer services with transmission speeds greater than those that are now defined as broadband. Rather, USF support in the broadband context should be based on the Commission's decision to define "broadband" as services having a speed of at least 768 kilobits per second (kbps) in the faster direction (upload or download).<sup>11</sup> This transmission speed continues to be sufficient for the most common Internet uses, such as sending and receiving email, viewing websites, accessing government services, shopping and banking online, and downloading or streaming online media. Moreover, as Cricket has noted previously, the real barrier to broadband service is *access*, not speed,<sup>12</sup> and the Commission therefore should focus on measures to ensure the universal availability and adoption of broadband service before considering heightened speed-related standards. In fact, if offering speeds greater than 768 kbps were a prerequisite to receiving USF support, wireless providers could be disqualified and, as a result, consumers most in need of assistance would be deprived of beneficial offerings.

<sup>11</sup> See *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improved Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC 9691 ¶ 20 & n.66 (rel. June 12, 2008).

<sup>12</sup> Cricket Broadband Comments at 1.

A condition requiring transmission speeds beyond “broadband” also would ignore the reality that consumers do not always place the greatest value on speed. Millions of consumers have chosen wireless broadband service (such as Cricket’s unlimited flat-rate broadband offerings) over wireline alternatives that offer faster transmission speeds. Residential and business consumers alike value the affordability, convenience, and mobility associated with wireless broadband service. In fact, Cricket subscribers report that *price* and *mobility* are the two most significant factors in choosing its wireless broadband service over other options. This consideration likely explains why nearly 50 percent of Cricket’s wireless broadband customers have not previously purchased Internet access. Cricket is their first Internet service provider.

Finally, any condition that ties USF support to heightened broadband speeds would undermine Commission policy by distorting competition and frustrating the market-driven growth of new wireless technologies. The Commission adopted its competitive neutrality principle to ensure that USF rules “neither unfairly advantage nor disadvantage one provider over another, and neither unfairly advantage nor disadvantage one technology over another.”<sup>13</sup> That principle “ensure[s] that . . . no entity receives an unfair competitive advantage that may skew the marketplace or inhibit competition by limiting the available quantity of services or restricting the entry of potential service providers.”<sup>14</sup> Yet a condition that imposes increased minimum speed thresholds would have just such an effect, as it could preclude wireless providers like Cricket from participating or at least curtail their involvement. Nor would such an artificial constraint serve any legitimate purpose, given consumers’ broadband usage patterns.

---

<sup>13</sup> *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776 ¶¶ 46-51 (1997) (“1997 USF Report and Order”).

<sup>14</sup> *Id.* ¶ 48. Likewise, competitive neutrality in the administration of the USF is intended to “foster the development of competition and benefit certain providers, including wireless, cable, and small businesses, that may have been excluded from participation in universal service mechanisms if [the Commission] had interpreted universal service eligibility criteria so as to favor particular technologies.” *Id.* ¶ 49.



The Commission would best serve consumers by ensuring that USF support is available to providers employing a wide range of technologies and offering various capabilities, provided they meet the "basic broadband" criteria that have already been established.

**CONCLUSION**

For the foregoing reasons, Cricket encourages the Commission to rely on USF support to advance the goals underlying the National Broadband Plan. However, the Commission should not condition the receipt of USF support on a provider's ability to offer services with transmission speeds in excess of those that now constitute "broadband."

Respectfully submitted,

/s/ James H. Barker

Robert J. Irving, Jr.  
Senior Vice President and General Counsel  
Cricket Communications, Inc.  
10307 Pacific Center Court  
San Diego, CA 92121  
(858) 882-6048

---

James H. Barker  
Christopher J. Termini  
LATHAM & WATKINS LLP  
555 Eleventh Street, NW  
Washington, DC 2004-1304  
(202) 637-2200

*Counsel for Cricket Communications, Inc.*

December 7, 2009